

No. 15135

United States
Court of Appeals
for the Ninth Circuit

WOODROW W. REYNOLDS, etc.,

Appellant,

vs.

HUGH WADE, as Treasurer, Territory of Alaska,
et al.,

Appellee.

Supplemental
Transcript of Record

Appeal from the District Court
for the District of Alaska,
Division Number One.

FILED

MAR 27 1957

PAUL P. O'BRIEN, CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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COUNSEL OF RECORD

For Plaintiff-Appellant:

HOWARD D. STABLER,
P.O. Box 546, Juneau, Alaska;
HENRY C. CLAUSEN,
315 Montgomery St., San Francisco.

For Defendant-Appellees:

J. GERALD WILLIAMS,
Attorney General;
EDWARD A. MERDES,
Assistant Attorney General,
P.O. Box 2170, Juneau, Alaska.

In the District Court for the District of Alaska,
Division Number One—At Juneau

No. 7397-A

WOODROW W. REYNOLDS, on Behalf of Him-
self and All Other Taxpayers Similarly Situ-
ated,

Plaintiff,

vs.

HUGH WADE, as Treasurer of the Territory of
Alaska; JOHN McKINNEY, as Director of
Finance of the Territory of Alaska; DON M.
DAFOE, as Commissioner of Education of
Alaska, and A. H. ZIEGLER, WILLIAM
WHITEHEAD, MRS. JAMES MARCH,
MRS. MYRA RANK and ROBERT F. BALD-
WIN, as Members of the Board of Education
of the Territory of Alaska,

Defendants.

AMENDED JUDGMENT AND DECREE

This cause came on to be heard on defendants' Motion to Dismiss, under Rule 12 (b), Federal Rules of Civil Procedure, on the grounds that: (1) Plaintiff's complaint fails to state a claim against the defendants upon which relief can be granted; and (2) it does not allege that the plaintiff will suffer any injury that will not be suffered in common with the general public; and the questions of law raised by the Motion having been argued before the Court on December 20, 1955, by counsel for each party,

who thereafter filed briefs in support of their arguments; and the Court being fully informed and having on March 26, 1956, entered and filed herein its written opinion to which reference is made,

It Is Hereby Ordered, Adjudged and Decreed that the plaintiff's complaint and action be, and they are hereby, dismissed; for the reasons stated in the Court's opinion of March 26, 1956; and

It Is Further Ordered, Adjudged and Decreed that defendants recover attorney fees in the amount of \$250.00.

Dated this 4th day of March, 1957.

/s/ WALTER H. HODGE,
District Judge.

Receipt of copy acknowledged.

[Endorsed]: Filed March 7, 1957.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given: That Woodrow W. Reynolds, the above-named plaintiff, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the final Amended Judgment and Decree herein dated March 4, 1957, and the whole thereof, and from the entry thereof in this action on March 7, 1957, in favor of the defendants and against the plaintiff, dismissing the plaintiff's com-

plaint and plaintiff's action for the reasons stated in the Court's Opinion of March 26, 1956; and awarding attorney fees to the defendants in the sum of \$250.00.

Dated: Juneau, Alaska, March 8, 1957.

HENRY C. CLAUSEN and
HOWARD D. STABLER,

By /s/ HOWARD D. STABLER,
Of Attorneys for Plaintiff-
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed March 8, 1957.

[Title of District Court and Cause.]

STIPULATION

Whereas, Notice of Appeal to the United States Court of Appeals for the Ninth Circuit from the final Amended Judgment and Decree herein dated March 4, 1957, and from the entry thereof on March 7, 1957, has been duly served, made and filed herein,

Now, therefore, it is hereby stipulated by and between the respective parties, by their respective attorneys in said action, that the Record on Appeal, including the printed Transcript of Record, Statement of Designation of Record and Statement of Points, and all Briefs of the respective parties, and all other records and papers in this action heretofore filed in the said appellate court in its Case No.

15,135, may be used and considered by said parties and said appellate court for all purposes in this appeal; and that the supersedeas and cost bond in said action on appeal shall be continued in full force and effect for all purposes of this appeal.

Dated: Juneau, Alaska, March 8, 1957.

J. GERALD WILLIAMS,
Attorney General of Alaska, Attorney for Defendants-Appellees;

/s/ EDWARD A. MERDES,
Assistant Attorney General.

HENRY C. CLAUSEN and
HOWARD D. STABLER,
Attorneys for Plaintiff-Appellants;

By /s/ HOWARD D. STABLER,
Of Attorneys for Plaintiff-Appellant.

[Endorsed]: Filed March 8, 1957.

[Title of District Court and Cause.]

CLERK'S CERTIFICATE

I, J. W. Leivers, the duly appointed, qualified and acting Clerk of the above-entitled Court, hereby certify:

That on March 7, 1957, at Juneau, Alaska, in the above-entitled Court and cause, I duly entered in

the Civil Docket of said Court in my office the following entry of a final Amended Judgment and Decree dated March 4, 1957, to wit:

“March 7, 1957. Filed and entered, by direction of District Judge Hodge, Amended Judgment and Decree in this action dated March 4, 1957, in favor of the defendants and against the plaintiff, dismissing the plaintiff’s complaint and action for the reasons stated in the Court’s Opinion of March 26, 1956, and awarding attorney fees to the defendants in the sum of \$250.00”;

and on the same date I mailed to all attorneys of record in said action the following:

“You are hereby notified that on March 7, 1957, a final Amended Judgment and Decree dated March 4, 1957, was duly filed, entered and noted in the Civil Docket of the District Court for the District of Alaska, Division No. 1, at Juneau, Alaska, in Case No. 7397-A, entitled Woodrow W. Reynolds, on behalf of himself and all other taxpayers similarly situated, plaintiff, versus Hugh Wade, as Treasurer of the Territory of Alaska, et al., defendants, in favor of the defendants and against the plaintiff, dismissing the plaintiff’s complaint and plaintiff’s said action for the reasons stated in the Court’s Opinion of March 26, 1956, and awarding attorney fees in favor of the defendants in the sum of \$250.00, copy of which Amended Judgment and Decree you have heretofore received.”

In Witness Whereof, I have hereunto set my hand and caused the seal of said Court to be affixed at Juneau, Alaska, March 7th, 1957.

[Seal] /s/ J. W. LEIVERS,
Clerk of the Above-Entitled
Court.

[Endorsed]: Filed March 7, 1957.

[Title of District Court and Cause.]

CLERK'S CERTIFICATE

I, J. W. Leivers, Clerk of the District Court for the District of Alaska, Division Number One thereof, do hereby certify that the hereto-attached pleadings are the originals thereof and all Orders of the Court filed in the above-entitled cause and constitute the Record on Appeal herein, the same being supplemental to the appeal heretofore heard in the Circuit Court for the Ninth Circuit, No. 15135.

In Witness Whereof, I have hereunto set my hand and caused the seal of the above-entitled Court to be affixed at Juneau, Alaska, this 11th day of March, 1957.

[Seal] /s/ J. W. LEIVERS,
Clerk of District Court.

[Endorsed]: No. 15,135. United States Court of Appeals for the Ninth Circuit. Woodrow W. Reynolds, etc., Appellant, vs. Hugh Wade, as Treasurer, Territory of Alaska, et al., Appellee. Supplemental Transcript of Record. Appeal from the District Court for the District of Alaska, Division Number One.

Filed March 14, 1957.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

